

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18361.9. Briefing Procedure of Proposed Decision by an Administrative Law Judge;

Reconsideration.

(a) Service of Process.

Within 14 days of receipt of a proposed decision by an administrative law judge following a hearing held pursuant to Government Code section 83116, the Executive Director shall serve a copy of the proposed decision on the Commission's Enforcement Division and the respondent(s). The Executive Director shall include notification of the date, time and place the matter will be heard by the Commission.

(b) Briefing Procedure.

(1) No later than 14 days after the date of service of the proposed decision, the Enforcement Division shall file an opening brief. The Enforcement Division shall file the original of the opening brief, with proof of service attached, and six copies with the Executive Director of the Commission. The Enforcement Division shall serve a copy of the brief, with proof of service, on the respondent. The opening brief may address the following:

(A) Whether the facts stated in the proposed decision are consistent with the evidence presented;

(B) Whether the proposed decision contains an accurate statement and/or application of the law;

(C) Whether there is additional material evidence that could not, with reasonable diligence, have been discovered and presented at the administrative hearing;

(D) Which of the dispositions provided for in Government Code section 11517 is

recommended by the Enforcement Division and why; and

(E) Any other issue the Enforcement Division determines to be relevant.

(2) No later than 14 days after the date of service of the Enforcement Division's opening brief, the respondent may file a response brief. The respondent shall file the original of the response brief, with proof of service attached, and six copies with the Executive Director of the Commission. The respondent shall serve a copy of the response brief, with proof of service, on the Enforcement Division.

(3) No later than 14 days after the date of service of the respondent's brief, the Enforcement Division may file a reply brief. The Enforcement Division shall file the original of the reply brief, with proof of service attached, and six copies with the Executive Director of the Commission. The Enforcement Division shall serve a copy of that reply brief, with proof of service, on the respondent.

(4) The Executive Director may, for good cause, extend the time requirements set forth in this subdivision.

(5) After receipt of all of the briefs, the Executive Director shall submit a copy of each brief to each Commissioner in a timely manner.

(c) Petitions for Reconsideration.

(1) Any party to the proceeding may petition the Commission for reconsideration within 15 days of service of the decision. The petition shall be served on all parties of record. A petition shall be deemed filed with the Commission on the date indicated on the proof of service; or, if there is no proof of service, the postmark date or date; of hand delivery to the Commission's office.

(2) The petition shall set forth in full detail the issues to be considered by the

Commission and contain specific references to the record and applicable principles of law. The petition shall be based upon one or both of the following grounds:

(A) The petitioner has discovered new material evidence that the petitioner could not, with reasonable diligence, have discovered and produced at the administrative hearing;

(B) The decision contains prejudicial errors of law or fact.

(3) An opposing party may file an answer within 10 days of service of a petition for reconsideration. The answer shall be served on all parties of record.

(4) A petition for reconsideration is deemed denied unless it is granted or denied in writing no later than 30 days after service of the Commission's decision. The Commission may extend the time for considering a petition for up to 10 days.

(5) The Chairperson or the Executive Director may grant or deny a petition for reconsideration or extend the time in which to consider the petition.

(6) If the petition is granted, the case shall be assigned to the full Commission or to an administrative law judge, either of whom may order the taking of additional evidence, or may affirm, rescind, alter or amend the decision on the basis of the record previously submitted. The decision after reconsideration shall be in writing and shall specify the reasons for the decision. If assigned to an administrative law judge, the decision is a proposed decision subject to the procedure set forth in Government Code section 11517.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 83108 and 83116, Government Code.

HISTORY

1. Renumbering and amendment of former section 18361.5 to new section 18361.9 filed 10-26-2004; operative 11-25-2004 (Register 2004, No. 44).